IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

MONDAY, THE 26TH MARCH 2007 / 5TH CHAITHRA 1929

WP(C).No. 10175 of 2006(J)

PETITIONER:

DR. E.T. KURIAKOSE,
MANAGING PARTNESR, SOUTHERN FISHESRIES
CORPORATION, ERNAKULAM, RESIDING AT NETHRA BHAVAN,
ERNAKULAM, COCHIN-682 016.

BY ADV. SRI.M.P.ABRAHAM (SR.)
SRI.ALIAS.M.M.
SRI.ABHISH JOSE

RESPONDENTS:
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1. **COCHIN CORPORATION, REPRESENTED BY**
ITS SECRETARY, CORPORATION OFFICE,
COCHIN-11.

2. **REVENUE INSPECTOR, COCHIN CORPORATION**
CORPORATION OFFICE, COCHIN-1.

BY ADV. SMT.A.G.ANEETHA, SC, COCHIN CORPN.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 26/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO.10175/2006

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE JUDGMENT IN OP. NO.4951/96 OF THE HONOURABLE HIGH COURT.

EXT.P2:- COPY OF THE ORDER IN OP. NO.3746/02 DT.1.2.02 OF THE HONOURABLE HIGH COURT.

EXT.P3:- COPY OF THE ORDER IN OP. NO.3746/02 DT.20.9.02 OF THE HONOURABLE HIGH COURT.

EXT.P4:- COPY OF THE RECEIPT DT.10.10.02 ISSUED BY THE CORPORATION OF COCHIN.

EXT.P5:- COPY OF THE RECEIPT DT.11.3.97 ISSUED BY THE CORPORATION OF COCHIN.

EXT.P6:- COPY OF THE NOTICE BEARING NO.CER3((C)/02981/05, DT.27.3.06 ISSUED BY THE CORPORATION OF COCHIN.

EXT.P7:- COPY OF THE OBJECTION FILED BY THE PETITIONER TO THE CORPORATION OF COCHIN.

EXT.P8:- COPY OF THE JUDGMENT IN CMA. 65/97 DT.6.8.99 OF THE DISTRICT COURT ERNAKULAM.

EXT.P9:- COPY OF THE JUDGMENT IN CMA 269/01 DT.7.8.04 OF THE DISTRICT COURT ERNAKULAM.

EXT.P10:- COPY OF THE NOTICE DT.17.3.04 BY THE RESPONDENT CORPORATION.

EXT.P11:- COPY OF THE CERTIFICATE DT.1.4.06 ISSUED BY M/S.STATE BANK OF SAURASHTRA, ERNAKULAM.

EXT.P12:- COPY OF THE CHEQUE FOR RS.3,00,000/-.

EXT.P13:- COPY OF THE CHEQUE FOR RS.3,00,000/-.

EXT.P1:- COPY OF THE CHEQUE FOR RS.3,00,000/-.

EST.P15:- COPY OF THE CHEQUE FOR RS. 3,00,000/-.

EXT.P16:- COPY OF THE RECEIPT BY THE RESPONDENT CORPORATION.

EXT.P17:- COPY OF THE RECEIPT BY THE RESPONDENT CORPORATION.

EXT.P18:- COPY OF THE RECEIPT BY THE RESPONDENT CORPORATION.

EXT.P19:- COPY OF THE RECEIPT BY THE RESPONDENT CORPORATION.

/TRUE COPY/

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PIUS C. KURIAKOSE, J.

W.P.(C) No. 10175 OF 2006

Dated this the 26th day of March, 2007

JUDGMENT

The Standing Counsel submits that as against the claim of the petitioner that a sum of Rs.23,34,726/- has been paid as per details given by him at page No.6 of the reply affidavit, payments actually made by the petitioner is only Rs.18,73,414/-.

2. I have heard Mr.M.P.Abraham, Senior Counsel for the petitioner and the Standing Counsel. As indicated in my order dt.2.3.07, I am fairly convinced that the directions in Exts.P8 and P9 judgments of the District Court in the two CM Appeals have been ignored by the Corporation while issuing Ext.P6.

Ext.P6 is accordingly quashed and the Corporation is directed to pass fresh assessment orders in the light of directions in Exts.P8 & P9. While passing fresh assessment orders, due credit will be given by the Corporation to all the payments which have been actually made by the petitioners. The Corporation has by their letter dt.09.02.2007 informed the petitioner that one time settlement scheme which has been brought into existence by the Government as per Government Order GO(MS) No.63/2007 of the Local Self Government Department, will be open till 31.05.2007. The Corporation will pass fresh orders as directed above

after hearing the petitioner at their earliest and at any rate within one month of the petitioner producing a copy of this judgment. The petitioner will be entitled for the benefit of the one time settlement scheme which has been introduced by the Government as per GO(MS) No.63/2007 for a period of two more weeks after fresh orders are issued and intimated to the petitioner. I find considerable force in the submissions of Sri.Abraham that since the Corporation is yet to pass assessment orders in response to Ext.P9 the situation which presently obtains is the situation on the issuance of Exts.P8 & P9 i.e. the situation of there not being any assessment orders at all and therefore the petitioner cannot be made liable for penal interest. The Corporation while passing fresh assessment orders will give due regard to the assessment made by the Corporation in respect of the adjacent buildings on the eastern and western side of the petitioner's property. Simultaneously with the passage of the assessment orders, the Corporation will ensure that the door numbers are affixed and displayed on the buildings so that there will no room for confusion for the assessee as to the identity of the assessed building.

Allowed as above. No costs.

PIUS C. KURIAKOSE, JUDGE

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